

**REMARKS**

**A.) The Section 112 Rejections**

Claims 15-17 were rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. Applicants respectively submit that the amendment to claim 15 which further describes the “transmission format” as being “associated with the domain used for the retransmission” renders these rejections moot. Applicants respectively request withdrawal of these rejections and allowance of claims 15-17.

**B.) The Section 102 Rejections**

Claims 1-13 and 20 were rejected under 35 U.S.C. § 102(b) to as being anticipated by Kwan, U.S. Application No. 10/184,022 (“Kwan”). Applicants respectively disagree and traverse these rejections for at least the following reasons.

Claims 1-13 and 20 are directed at a method for retransmitting information which includes, among other things, transmitting a code multiplexed retransmission of a previous transmission...wherein the number of codes used for the retransmission is variable based on the condition of a communication channel. Kwan does not disclose any method for retransmission, let alone the method for retransmission in claims 1-13 and 20. Nonetheless, the Examiner argues that retransmission is inherit in Kwan’s transmission scheme.

Applicants respectively submit that the Examiner has confused sequential transmissions using the same transmission scheme with a retransmission of a previous transmission. While Kwan may disclose using the

same method to transmit sequential frames, it is wholly and entirely silent regarding the method used for retransmitting frames.

Appellants submit that because Kwan does not mention any retransmission method whatsoever, the subject matter of claims 1-13 and 20 cannot be inherent from Kwan because there is no way to determine whether Kwan's methods necessarily function in accordance with the steps set forth in claims 1-13 and 20.

Because Kwan does not disclose each and every feature of the present invention, either explicitly or inherently, Kwan cannot anticipate the claims of the present invention.

Accordingly, Applicants respectively request withdrawal of the pending rejections and allowance claims 1-13 and 20.

**C.) The Section 103 Rejections**

Claims 14-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kwan in view of Bolgiano, U.S. Patent No. 6,366,568 ("Bolgiano"). Applicants respectively disagree and traverse these rejections for at least the following reasons.

Each of these claims require, among other things, sending a fixed duration retransmission of a previous transmission. As indicated above, Kwan does not disclose or suggest any retransmission scheme nor is one inherent in the disclosure of Kwan.

Bolgiano does make up for the deficiencies of Kwan. Accordingly, for this reason the combination of Kwan and Bolgiano does not disclose or suggest the subject matter of claims 14-19.

In addition, Applicants acknowledge the Examiner's admission that Kwan does not disclose "using a transmission domain selected from a space domain and defining the transmission formats based on certain parameters". Because Bolgiano does not disclose or suggest methods for providing adaptive incremental redundancy which includes among other things, sending a fixed duration retransmission from a previous transmission in a domain selected from a group consisting of a code domain, frequency domain, and space domain it is respectfully submitted that the claims of the present invention would not have been obvious to one of ordinary skill in the art at the time the application was filed based on the disclosures of Kwan or Bolgiano, taken separately or in combination.

Accordingly, Applicants respectively request withdrawal of the pending rejections and allowance of claims 14-19.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

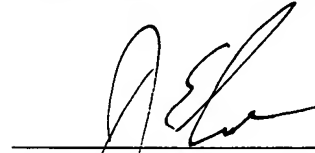
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By



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